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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2011-912

**CARRIE VIRGINIA MARSHALL
19595 San Vincente Drive
Redding, CA 96003
Registered Nurse License No. 589984
Nurse Practitioner Certificate No. 15741**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

RESPONDENT

FINDINGS OF FACT

1. On or about May 9, 2011, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2011-912 against Carrie Virginia Marshall(Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about October 3, 2001, the Board of Registered Nursing (Board) issued Registered Nurse License No. 589984 to Respondent. On or about July 7, 2005, the Board of Registered Nursing issued Nurse Practitioner Certificate No. 15741 to Respondent. The Registered Nurse License and Nurse Practitioner Certificate will expire on April 30, 2013, unless renewed.

3. On or about May 9, 2011, the Respondent was served by Certified and First Class Mail copies of the Accusation No. 2011-912, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and Title 16 California Code of Regulations section 1409.1, is required to be reported and maintained with the Board, which was and is:

19595 San Vincente Drive
Redding, CA 96003

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. On or about May 10, 2011, the Certified mail was delivered by the postal service.

5 6. Business and Professions Code section 2764 states:

6 The lapsing or suspension of a license by operation of law or by order or decision of
7 the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive
8 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding
9 against such license, or to render a decision suspending or revoking such license.

10 7. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
12 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
13 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
14 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

15 8. Respondent failed to file a Notice of Defense within 15 days after service upon her of
16 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2011-
17 912.

18 9. California Government Code section 11520 states, in pertinent part:

19 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
20 agency may take action based upon the respondent's express admissions or upon other evidence
21 and affidavits may be used as evidence without any notice to respondent.

22 10. Pursuant to its authority under Government Code section 11520, the Board after
23 having reviewed the proof of service dated, May 9, 2011, finds Respondent is in default. The
24 Board will take action without further hearing and, based on Accusation No. 2011-912 and the
25 documents contained in the Default Decision Investigatory Evidence Packet which includes:
26 Exhibit 1 – Pleadings offered for jurisdictional purposes; Exhibit 2 – License History
27 Certification for Carrie Virginia Marshall, Registered Nurse License No. 589984 and Nurse
28 Practitioner Certificate No. 15741; Exhibit 3 – Commonwealth of Massachusetts, Suffolk

County, In the Matter of Carrie V. Marshall, RN/NP 237573 (License Exp. 3/5/10), Board of Registration in Nursing, Docket No. NUR-2009-0035, Consent Agreement for Voluntary Surrender; Exhibit 4 - Affidavit of Shannon Silberling ; Exhibit 5 - Declaration of costs by Office of the Attorney General for Prosecution of Case No. 2011-912, and finds that the charges and allegations in Accusation No. 2011-912 are separately and severally true and correct by clear and convincing evidence.

11. Taking official notice of the Declaration of costs by the Office of the Attorney General contained in the Default Decision Investigatory Evidence Packet, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement in connection with the Accusation are \$957.50, as of May 31, 2011.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Carrie Virginia Marshall has subjected her following licenses to discipline:

- a. Registered Nurse License No. 589984
- b. Nurse Practitioner Certificate No. 15741

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License and Nurse Practitioner Certificate based upon the following violations alleged in the Accusation, which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.

- a. Violation of Business and Professions Code section 2761(a)(4) - Disciplinary action by another State Board of Nursing.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 589984 and Nurse Practitioner Certificate No. 15741, heretofore issued to Respondent Carrie Virginia Marshall, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 26, 2011.

It is so ORDERED July 27, 2011



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

Attachment:

Exhibit A: Accusation No. 2011-912

Exhibit A

Accusation No. 2011-912

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SUSANA A. GONZALES
Deputy Attorney General
4 State Bar No. 253027
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2221
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2011-912

12 **CARRIE VIRGINIA MARSHALL**
19595 San Vincente Drive
13 Redding, CA 96003
Registered Nurse License No. 589984
14 Nurse Practitioner Certificate No. 15741

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about October 23, 2001, the Board of Registered Nursing issued Registered
23 Nurse License Number 589984 to Carrie Virginia Marshall (Respondent). On or about July 7,
24 2005, the Board of Registered Nursing issued Nurse Practitioner Certificate No. 15741. The
25 Registered Nurse License and Nurse Practitioner Certificate were in full force and effect at all
26 times relevant to the charges brought in this Accusation and both will expire on April 30, 2013,
27 unless renewed.
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1 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
2 action.”

3 ...
4 (e) Making or giving any false statement or information in connection with the application
5 for certificate or license.”

6 COST RECOVERY

7 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licentiate found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 FIRST CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct – Out of State Discipline)
(Bus. & Prof. Code § 2761, subd. (a)(4))

13 9. Respondent has subjected her registered nurse license and nurse practitioner
14 certificate to disciplinary action under Code section 2761, subdivision (a)(4), in that on or about
15 November 18, 2009, in a disciplinary action before the Board of Registration in Nursing of the
16 Commonwealth of Massachusetts (Massachusetts Board), Docket Number NUR-2009-0035, the
17 Massachusetts Board entered a Consent Agreement for Voluntary Surrender (Agreement),
18 accepting Respondent’s voluntary surrender of her Massachusetts registered nurse license.
19 Respondent agreed not to practice as a registered nurse in Massachusetts from the effective date
20 of the Agreement unless and until the Massachusetts Board were to reinstate her license. The
21 Agreement required Respondent to wait at least three years before petitioning for reinstatement of
22 her license and also required her to fulfill several conditions before petitioning for reinstatement.
23 Before petitioning for reinstatement, the Agreement required Respondent to: (1) provide evidence
24 of completion of all continuing education required by Board regulations for the two renewal
25 cycles immediately preceding the submission of her petition for reinstatement (petition date);
26 (2) submit a performance evaluation from each of her employers, reviewing her attendance,
27 general reliability, and specific job performance during the year immediately prior to the petition
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1 date; (3) submit written verification from each of her medical providers stating that she is
2 medically able to resume the safe and competent practice of nursing and listing all medications
3 that the provider prescribes to her and the condition or diagnosis which the medication is intended
4 to treat; (4) submit authorization for the Board to obtain a Criminal Offender Record Information
5 report on her conducted by the Massachusetts Criminal History Systems Board; (5) submit
6 documentation supporting that at least one year prior to the petition date, she has completed all
7 requirements imposed upon her in connection with all criminal and administrative matters arising
8 from or related to the conduct which led to her discipline by the Massachusetts Board; (6) submit
9 certified documentation from the state board of nursing of each jurisdiction in which she has been
10 licensed to practice as a nurse that identifies her license status disciplinary history and verifies
11 that her license is in good standing and free of any restrictions or conditions; (7) submit
12 documentation that she has successfully completed six contact hours of continuing education on
13 the topic of legal and ethical standards of nursing; (8) submit negative results for random
14 supervised urine tests for substances of abuse at least twelve times per year for the two years
15 immediately preceding the petition date; (9) submit documentation that she has obtained a
16 sponsor and has regularly attended Alcoholics Anonymous or Narcotics Anonymous meetings at
17 least three times per week during the two years immediately preceding the petition date including
18 a letter of support from her sponsor and signatures verifying the required attendance; and
19 (10) submit documentation prepared within thirty days of the petition date from a licensed mental
20 health provider verifying Respondent's regular attendance at group or individual counseling or
21 therapy, or both, and summarizing Respondent's frequency of attendance, progress in therapy,
22 and specific treatment recommendations for Respondent's sustained recovery from substance
23 abuse, dependency, and addiction. The Agreement gave the Massachusetts Board the discretion
24 to reinstate Respondent's license if the Board determined that reinstatement was in the best
25 interests of the public at large, and any reinstatement could be conditioned upon Respondent
26 entering into a consent agreement for the probation of her license under various terms and
27 conditions.

10. The underlying conduct supporting the Massachusetts Board's disciplinary action is that from on or about October 2008 through February 2009, while employed as a Nurse Practitioner at Cape Pediatrics LLP in Forestdale, Massachusetts, Respondent falsified a number of prescriptions for narcotic controlled substances in the names of physicians of the practice and filled or attempted to fill these prescriptions for her own use for pain relief due to injuries sustained in a motor vehicle accident in 2001. Furthermore, on or about September 1, 2009, Respondent admitted to facts sufficient to support one charge of obtaining drugs by fraud in an action pending in the South Boston District Court. That action was continued without a finding until September 1, 2010.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – False Statement or Information in Application)
(Bus. & Prof. Code § 2761, subd. (e))

11. Complainant realleges the allegations contained in paragraphs 9 and 10 above, and incorporates them by reference as if fully set forth.

12. Respondent has subjected her registered nurse license and nurse practitioner certificate to disciplinary action under Code section 2761, subdivision (e), in that she made or gave false statements and information to the California Board in connection with her application for renewal of her California registered nurse license.

13. On or about March 7, 2011, Respondent submitted a “Renewal Application for Registered Nurse” to the California Board of Registered Nursing. In her renewal application, Respondent denied having a license disciplined by a government agency or other disciplinary body since she last renewed her license. Prior to March 2011, Respondent last renewed her license on or about February 5, 2009. Respondent’s denial of license discipline in her renewal application constitutes a misrepresentation given the disciplinary action taken by the Massachusetts Board against her Massachusetts registered nurse license on or about November 18, 2009, as set forth above in paragraphs 9 and 10.

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3. Taking such other and further action as deemed necessary and proper.

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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